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ABSTRACT

This paper examines the ethical question of the use of painful aversive procedures as an intervention with people having severe disabilities and concludes that pain is not an appropriate tool in professional work. It recommends that, when in doubt, professionals avoid causing pain and act, instead, to create the conditions that decrease the occurrence of pain. The deliberate use of pain as a tool is seen to increase the vulnerability of the individual with disabilities. Among the actions recommended for limiting the occurrence of pain are the following--increasing personal knowledge of the individual, recognizing mutual vulnerability, negotiating limits, practicing reconciliation, and developing enduring positive relationships. Includes 23 references. (DB)

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# AGAINST PAIN AS A TOOL IN PROFESSIONAL WORK ON PEOPLE WITH SEVERE DISABILITIES

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# Against Pain as a Tool in Professional Work on People with Severe Disabilities

John O'Brien

Those with professional power over people with severe disabilities face an ethical question: is it good to use pain as a tool in their work?

My answer is no. Pain as a tool increases the power professionals have over vulnerable people while it decreases the chances of a positive human relationship between those who choose pain and those who are hurt. People who wish to build positive relationships and less violent social settings will follow two simple rules: if in doubt, do not cause pain; and, act positively to create conditions that decrease the occurrence of pain. Right living lies in the long term struggle to apply these two rules in the creation of fitting responses to the difficult situations arising from engagement with people with severe disabilities who injure themselves or others.

## Pain, Punishment, or Aversive Treatment?

Some participants in the current debate over what they call aversive procedures may say I have answered a question formed in ignorance. Behavior analysts might rather talk of punishment, which they define as a contingency that decreases the rate at which behavior occurs. In their jargon, punishment need be neither painful nor purposeful. This definition helps analyze behavior, but it confuses argument over the legitimacy of pain as a tool. Skinner (1984; Griffin, et al., 1988) notes how frequently behavior analysis is misunderstood by people who reduce

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This discussion owes a great deal to Nils Christie, a Norwegian criminologist, whose *Limits to Pain* (1982) explores these principles as they apply to people in conflict with the law.

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it to causing pain in the service of social control. I don't want to add to the misunderstanding. I only want to discuss those professionally arranged punishers that inflict pain.

"Aversive treatment" and "intrusive procedure" seem to me unhelpful euphemisms which cloak the use of pain beneath a long white lab coat. These terms confuse because they are sometimes defined to include both activities that intentionally inflict pain (such as electric shock, unpleasant noises or odors, humiliation designed to cause pain, taking away things impoverished people value most, hair pulling, and pinching) and activities that might seem odd or even offensive but may not be intended to inflict pain (such as some procedures based on the principle of satiation and some forms of time-out). Activities that deprive or offend against a common sense of decency deserve scrutiny and should be avoided. But because professionals in control of people with severe disabilities lack agreement on whether it is right to inflict pain, focus on the narrower question of purposeful use of pain comes first.

### What is Distinctive About Pain as a Professional Tool?

The choice of pain itself as treatment distinguishes it from many ordinary occasions of pain. Pain is often taken as the signal of a problem; it is seldom taken as the solution. Having a tooth filled can be painful, but the pain is a consequence of technique not itself the tool. Pain does not cure caries. Working out to increase physical strength and stamina can be painful, but the pain is a consequence of exercise. Simply hurting oneself does not build muscle.

Self-administration of pain as a means to attain personally chosen goals is different from application of pain by people who control the everyday life of others who are the object of their work. The penitent who chooses self-inflicted pain as a spiritual discipline and the psychologist who wants to stop smoking and decides to self-administer rubber band snaps live in different worlds from the person who depends on program staff who structure twenty-four hours of each day and have the last word in the selection of goals and methods.

Measured application of pain as a procedure distin-

guishes it from spontaneous, violent reaction to provocation. "Severely intrusive procedures" are deliberately planned by professional teams to replace spontaneous reactions with measured ones. Professional choice of pain —that is, choice within the impersonal context of expert and client— sets it apart from the most typical purposeful use of pain: deliberate punishment of children by their parents. (To distinguish pain as a professional tool is not, of course, to advocate spontaneous violence or child beating.)

The use of pain as a tool with those over whom they have power connects therapists with teachers who administer corporal punishment (Mancuso, 1972), some inquisitors,* some jailors,** and professional torturers. The important similarity is not in the choice of methods for delivering pain, or in the pain's intensity, duration, or immediate purpose, but in their deliberate selection of pain as a tool and the social context of inequality within which they choose to use pain. Some reports of the use of pain as therapy rival accounts of torture, but these abominations can confuse the issue. When practitioners of less harsh or less bizarre hurt distance themselves from extremists, they deny their fundamental links to other professional users of pain. This denial distracts from necessary ethical argument: why choose to hurt someone you hold power over?

### Is the Warrant for Pain Found in Professionalism and Due Process?

Some justify the use of pain as a tool by the professional status of those who plan its use and their observance of proper form in its planning and administration. In its simplest form, this argument asserts that pain is a good thing (or the least bad thing) as long as it is chosen by a properly accredited professional or team of professionals. Pain as treatment is justified by conventions of practice based on facts collected and screened within the rules of a society of experts. Certified professionals may

* Though many take the inquisition as synonymous with torture to extract confession and repentance, the power to use torture was only granted by exception to those inquisitors who were able to convince the pope that no less intrusive measure sufficed to root out error. Elaborate procedural safeguards insured that each accused person had ample opportunity to respond to less intrusive measures (cf. Kramer & Sprenger, 1486/1971).

** DiIulio (1987) points out that most jailors today see themselves as keepers not as punishers. For them, the function of their work is to incapacitate, to control, possibly to rehabilitate, but not itself to punish. Most see choosing to inflict pain as incompatible with their profession. However, see Christie (1982) for a discussion of imprisonment itself as the infliction of pain.

disagree, so a spectrum of approaches to pain define conventional practice. Only other experts are competent to judge the appropriateness of a professional's decision.

State authorities that regulate the use of pain as a tool elaborate this point of view in routinizing pain's application by specifying due process. A summary of one state's regulations illustrates.* To make the administration of pain legal, a team, which includes the person to be hurt or the person's guardian, must choose it. The team works under the supervision of a psychologist or a psychiatrist, who must see the person at least once a week for the first month that pain is used and once a month thereafter. This professional must also train staff in the pain procedure, collect information, and make reports. When pain is delivered by electric shock, the supervisor must be "personally present on site" and test the shock apparatus on him or her self before it is used to hurt the person. A physician must examine the person to be hurt and approve the plan. Team decisions must be reviewed and approved by an external review panel which includes a professional advocate. The team certifies that less intrusive procedures have been tried and found ineffective. They make a judgement showing that "the severity of the problem exceeds the severity of the treatment." They define detailed procedures for monitoring and revising the administration of pain. Before pain application begins, the person to be hurt or the guardian "shall give informed consent," the administrator of the program in which pain will be used must approve, and various state officials must be notified.

It is hard for me to imagine what this elaborate process seems like to a person who is hurt on schedule in its consequence.

People in controversy over the use of pain appeal to scientific aspects of professionalism to support their position.

Advocates of pain as a professional tool sum up the evidence. They argue from uncertainty: we have not tested pain long enough or systematically enough to agree on its effects; more

* This discussion is based on my reading of *Regulations and Handbook Governing the Use of Behavioral Procedures in Maine Programs Serving Persons with Mental Retardation* (Augusta: Bureau of Mental Retardation, 1987). I selected these regulations because they are thoughtful, clearly written, and representative of the efforts of many authorities charged to regulate the use of pain. Quotations are from section 3 of the regulations.

research is needed, so pain must continue to be used. They argue from inefficiency: pain is quicker than other methods and should be used to reduce suffering in the person to be hurt and expense to the service system. They argue from ineffectiveness: in some cases, which only experts are qualified to identify, no other method can work.

Advocates against the use of pain review the evidence. They argue from uncertainty: pain is unproven and its side effects are poorly understood, it must be stopped. They argue from inefficiency: the use of pain is costly and inefficient, other methods are more efficient. They argue from ineffectiveness: pain has not been proven effective, especially in the long term; it should be rejected in favor of other methods.

Advocates for the use of pain review the facts about "nonaversive interventions" and argue that they are themselves uncertain, inefficient, and ineffective. Advocates opposed to pain counterattack. Both sides agree that more study is needed to settle the question, though they disagree about the research agenda.

Perhaps one day this professional argument will lead to agreement on the facts. Perhaps this is how science progresses. But for now people with severe disabilities live with the consequences of polarization among those who control their lives.

As scientific debate proceeds, both sides attempt to convince judicial, executive, and legislative authorities to join their side on the basis of partial and equivocal evidence. Given the current climate of judicial deference to expert opinion, those who oppose pain have the harder going in court. Continued disagreement among qualified professionals defines the spectrum from which professionals may legitimately choose. As long as some experts sanction pain, and no argument demonstrates its fundamental incompatibility with community values, it remains on the menu until a regulation or a law that can stand constitutional test forbids it (Wiseman, 1988). Both reasonable bureaucrats and sensible legislators are more inclined to look for ways to avoid conflict by leaving room for every interest group than they are to just say no to a professional subgroup and its constituencies.*

* If this seems pessimistic, consider the changes to the Community and Family Living Amendments to the Social Security Act since its introduction to Congress, the broad tolerance accorded segregated school placements by the US Department of Education, and the reluctance of legislatures to significantly limit the practice of chiropractic and naturopathic healing despite the weight of scientific evidence and political influence brought to bear by conventional medical trade groups.

No matter how systematic one's method, it is hard to prove that no case exists where pain might be necessary. Successful use of alternatives to pain can be said simply to demonstrate that the person involved obviously fell outside the category of those who need to be hurt to be improved. Those opposed to pain are hindered by an unpopular image as prohibitionists who oppose scientific progress and want to spoil the efforts of heroic professionals willing to take on the worst cases. Even the rallying cry — a call for non-aversive procedures— defines their position negatively.

Pain will remain a legally sanctioned tool until a consensus forms against it. For now at least, professional debate is unlikely to shape that consensus with facts. Adding professional procedures and due process protections to the delivery of pain may make those who administer pain more careful and rule out some extreme measures,* but they beg the fundamental question: is it good to use pain as a tool? Those convinced that the answer is no have to move beyond professionalism and due process.

Even when pain is finally outlawed as a professional tool, some people with severe disabilities will inflict pain on self or other people. If they are to live in dignity with the rest of us, we must learn how to create the conditions that decrease the occurrence of pain among us.

Technically competent professional help** offers opportunities for meaningful activity, effectively teaches useful skills, directs and redirects attention, increases problem solving abilities to make some difficult behavior unnecessary, helps people manage themselves more effectively, and shapes environments to decrease the incidence of hurt by defining and rearranging the pattern of consequences associated with someone inflicting pain on self or others.

But technique will not eradicate suffering. Some people will strain the limits of technical competence with the inexplicable endurance or recurrence of violent or disgusting behavior. If we have the courage not to run from them and blame them for their disability, these people can teach all of us about building a social context in which we learn to decrease the occurrence of pain. This

* Lovaas & Favel (1987) offer a thorough and thoughtful expression of this point of view. They propose professional criteria which are so stringent that very few service settings would be able to administer pain.

** See, for example, Donnellan, et al. (1988) LaVigna & Donnellan (1986), Evans & Meyer (1985) and McGee, et al. (1987) for an array of techniques to deal with very difficult situations.

context is necessary for application of any technique to make sense and founds agreement against professional infliction of pain.

Each condition for limiting the occurrence of pain depends on all the others.* These conditions include: personal knowledge, mutual vulnerability, negotiated restraints on those who hold power over others, means to effect reconciliation, means to deal with the mystery of suffering, and widespread support to sustain relationships as people change over time.

Personal knowledge

Personal knowledge arises from concern for another's history, life situation, interests, and purposes.** It grows from spending time with someone in a variety of places and activities, from listening, and from seeking a person's interests and capacities. To build personal knowledge, approach people who inflict pain on themselves or others respectfully. Recognize that depersonalizing environments breed pain and justify the professional use of pain (Guess, et al., 1987). Account the costs of pain procedures on existing relationships with people who care for the person. Seek to understand what the person's violence communicates and what positive intentions it may serve given the context of their life situation. Enlist others who know the person in seeking understanding. Avoid explanations that blame the person who is inflicting pain on self or others. Search for capacities and interests that may be overshadowed by the person's violence.

Mutual vulnerability

Mutual vulnerability increases as physical and social distance decrease, as weaker people gain control over resources, and as purposes and projects are shared. It grows from a decision to allow the other to become important to us, to touch us personally. To build mutual vulnerability, stay close to people who inflict pain on themselves or others. Recognize that physical and social distance increases the likelihood of inflicting pain (Milgram, 1965). Challenge everyday practices that build distance between staff and the people who rely on them. Reject the notion that someone who examines data about a person and observes briefly can prescribe a solution to be implemented by others lower down the hierarchy. Invest in the

* See Christie (1977; 1982), French (1985), Sarason (1974 ), and Vanier (1982) for other ways to describe these conditions and other ways to achieve them.
** Although he does not use these terms, Lovett (1986) provides a helpful discussion of why and how to respond to people with challenging behaviors in ways that build personal knowledge and mutual vulnerability.

people who live together with the violence to increase their effective control of their environment. Increase the control people with disabilities have over their circumstances, schedules, and helpers (Berkman & Meyer, 1988). Ally with people in discovering and pursuing meaningful projects.

Negotiated limits

Negotiated limits on what powerful people will do to weak people lie at the foundation of liberty. Because many people who inflict pain on themselves or others depend completely on environments designed and controlled by professionals, it is necessary to rule out pain as a therapeutic tool, but it is not sufficient to do so. Poverty, prejudice, isolation, ineffective help, and crowding too frequently shape the life conditions and opportunities of people with disabilities. To negotiate meaningful limits, begin by ruling out the use of pain as a professional tool. Not because it might not work, but because it is wrong. Not because it is poor professional practice but because it is fundamentally opposed to constitutional guarantees of liberty. Realize that social norms that sanction people hurting others as a response to problems lie at the root of violence among people (Gelles & Straus, 1988). Acknowledge that the use of painful methods undermines the possibility of respectful human relationships (Kipnis, 1987; McGee, et al. 1987). Recognize that bureaucratizing the administration of pain through due process multiplies the danger that inflicting pain will become more impersonal and more extreme (Rubenstein, 1978). Clearly identify the social policies and professional practices shaping environments that breed pain and work systematically to change them.

Reconciliation

Reconciliation between people who have offended and hurt one another is essential to community life. Effective means for reconciliation combine agreement on an explanation of the hurtful event that strengthens common values; support for expression of hurt, indignation, anger, and grief; agreement on restitution or penalty; forgiveness; and seeking a common project between parties to the hurt. Procedures that take the means of reconciliation away from the people involved and make conflicts into professional property hinder reconciliation even if they guarantee "due process" (Christie, 1977). Such impersonal

processes work best when parties to a conflict can avoid one another after judgement is rendered; people who will continue to live together or share their daily life need to learn to heal their mutual hurts.

Suffering

Suffering is a human mystery that cannot be eradicated by the best technical effort or by our necessarily partial and incomplete efforts to build the conditions that limit the occurrence of pain. People who live with severe disabilities and those who assist them need to discover ways to come to terms with suffering. Dealing with suffering calls for recognition of the reality of suffering, finding meaning in its experience, and finding a way to continue life in the presence of suffering. Realize that compassion and caring are rooted in shared suffering.

Enduring positive relationships

Enduring positive relationships are the foundation for the mutual learning necessary to right living with people who inflict pain on themselves or others. To build enduring relationships, encourage personal commitments. Invest in people who want to make a commitment to one another and in the settings they share. Find reasons for relationships that go beyond technical help or personal assistance. Build circles of personal support that include some people with a bit of distance from everyday routines. Make time to reflect. Help people redefine their commitments as people and circumstances change. Celebrate people's fidelity to one another.

The more energy we put into producing therapeutic pain—and the more energy that has to go into fighting its use— the less energy is available for creating the conditions that limit the occurrence of pain. While the controversy goes on, people can create these conditions in small ways, close to people who inflict pain on themselves or others. And it is essential to do so. But the work will be easier the more widely it is shared.

I oppose the professional use of pain as a tool because it undermines each of the conditions for creating the community which decreases the occurrence of pain and sustains us to live together in our times of joy and in our times of suffering.

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